

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4737 of 2021

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Murlidhar Sudhanshu Son of Sri Jiwachh Prasad, resident of Village and P.O.-
Mahuli, P.S. - Rosera, District – Samastipur ... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Water Resources Department, Bihar, Patna.
3. The Joint Secretary, Water Resources Department, Government of Bihar, Patna-cum-Enquiry Officer.
4. The Additional Secretary, Water Resources Department, Bihar, Patna.
5. The District Magistrate, Darbhanga.
6. The Engineer-in-Chief, Water Resources Department, (Headquarter), Government of Bihar, Patna.
7. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur.
8. The Superintending Engineer, Flood Control Circle, Darbhanga.
9. The Executive Engineer, Flood Control Circle, Darbhanga.
10. The Executive Engineer, Flood Control Planning and Monitoring Division, 18, Water Resources Department, Patna -cum-Presenting Officer.
11. The Executive Engineer, Flood Control Division- 2, Jhanjharpur, District - Madhubani.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Indu Bhushan, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 02-02-2023 Heard learned counsel for the petitioner and the State.

This writ petition is directed against order contained in Memo no. 2183 dated 27.9.2018 (Annexure 11) issued by respondent no.6 by which eight increments of the petitioner has been stopped with cumulative effect. By way of filing IA No.1 of 2022, petitioner has also challenged order dated 9.9.2022, by which his appeal against the said order has been dismissed.



Learned counsel for the petitioner makes a short submission to assail the order of punishment that the Enquiry Officer has acted as the Presenting Officer and without any evidence or material gave his opinion that charge nos. 1 & 3 are proved, which is clearly evident from the impugned orders as well as the enquiry report (Annexure-9). No explanation has been given as to why Presenting Officer did not choose to lead evidence. It is further submitted that this completely vitiates the proceeding in view of the observations of this Court in **Panchanan Kumar Vs. The Bihar State Electricity Board & ors.**, reported in **1996(1) PLJR 401**. Relevant part of the judgment is re-produced herein below:-

“Considering the rival contentions of the parties, this Court is of the opinion that in the instant case the inquiry has been vitiated inasmuch as the enquiry officer himself has acted as the presenting officer even though the presenting officer was appointed by the Electricity Board. There is no explanation why the said presenting officer did not appear before the enquiry officer to present the case of the department. In the peculiar facts of this case, the action of the enquiry officer to present the case himself on behalf of the department and also to take upon himself the duty of enquiring the correctness or otherwise of the said case clearly shows that the enquiry officer, in the instant case, has failed to discharge his duty as a fair and impartial enquiry authority. He has rolled up within himself the role of both the presenting



officer and the enquiry officer and as such has acted in a manner which is not consistent with the principles of natural justice...”

Learned counsel for the State is unable to controvert the submission of learned counsel for the petitioner.

Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. As has already been settled in the decision of this Court in the case of **Panchanan Kumar (supra)**, a proceeding stands vitiated where the enquiry officer himself acts as the presenting officer, which is the situation obtaining in the present case as well. Order of punishment dated 27.9.2018 (Annexure 11) is accordingly set aside with consequential benefits. Since order has been set aside on the ground of procedural lapses, respondents are at liberty to initiate a fresh proceeding against the petitioner in accordance with law, if so advised.

Writ petition accordingly stands allowed.

(Prabhat Kumar Singh, J)

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